

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.2815 OF 2006

The Dean, Government Medical College,
Miraj, Dist. Sangli & Ors.

..Petitioners.

Vs.

Smt. Suman Vasantrao Kanetkar

..Respondent.

...

Mr. Deepak Patil, AGP for the Petitioners.

CORAM: DR. D.Y. CHANDRACHUD, J.

23rd June, 2006.

P.C. :

1. The Respondent was appointed as a Junior Clerk in the Government Medical College at Miraj on 9th July, 1974. The Respondent held the B. Com. Degree qualification and had passed English and Marathi typing examinations. She worked continuously as a clerk until 26th July, 1979. On 27th July, 1979 the Respondent was promoted as a Senior Clerk by the Dean of the Medical College and she worked in that capacity until 18th December, 1985. The Respondent was sent for departmental post recruitment training between July and October 1983. On 14th December, 1985 the services of the Respondent were terminated

with effect from 18th December, 1985. By then, she had already put in 11 years and five months of service. The ground on which the services of the Respondent were terminated was that at the time of the initial recruitment she was over age.

2. The Labour Court and the Industrial Court on these facts have come to the conclusion that the termination was completely unlawful. At the time of recruitment of the Respondent her secondary school certificate had been submitted. In the secondary school certificate and school leaving certificate the correct date of birth was mentioned. The date of birth so mentioned was 15th August, 1946. There was no suppression on the part of the Respondent. The Labour Court as well as the Industrial Court adverted to the Government Resolution dated 5th February, 1990 providing for regularization of the services of candidates who were not recommended or selected by Selection Boards. The conditions contained therein were satisfied by the Respondent, in that (i) She belonged to the economically weaker section of the society and (ii) Her candidature has been recommended by the Employment Exchange at Sangli as is evident from the original order of appointment at Exh.B-33. Having regard to these

circumstances, the termination of the services of the Respondent 11 years after she was appointed was clearly unlawful. The Labour Court was justified in allowing the complaint on the finding of there has been an unfair labour practice. The Respondent was directed to be reinstated with continuity of service, but without any back wages. No case for interference under Article 227 is made out. The Petition is dismissed.